

House File 359 - Introduced

HOUSE FILE _____
BY QUIRK

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to and establishing criteria for the award of
2 certain public contracts.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2061YH 82
5 eg/gg/14

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1 1 Section 1. Section 26.7, subsection 1, Code 2007, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. ee. The criteria considered in the award
1 4 of a contract as specified in section 72.6, as applicable.
1 5 Sec. 2. NEW SECTION. 72.6 PUBLIC CONTRACTS ==
1 6 QUALIFICATIONS.
1 7 1. DEFINITIONS. As used in this section:
1 8 a. "Public owner" means a public body, including the state
1 9 and a political subdivision of the state, an officer,
1 10 official, agency, authority, board, or commission of the state
1 11 or of a political subdivision of the state, or an institution
1 12 supported in whole or in part by public funds.
1 13 b. "Public road project" means a project under the control
1 14 of a public owner for the construction, maintenance, or repair
1 15 of a road or street that is funded, in whole or in part, by
1 16 moneys from the road use tax fund.
1 17 c. "Public works" means a building or other construction
1 18 work which is constructed under the control of a public owner
1 19 and is paid for in whole or in part with funds of a public
1 20 owner. "Public works" does not include any work done by or on
1 21 behalf of a drainage or levee district or any work funded by
1 22 federal funds where federal procurement policy applicable to
1 23 the use of the federal funds is inconsistent with the
1 24 requirements of this section.
1 25 d. "Public works project" means the construction,
1 26 maintenance, or repair of public works. However, "public
1 27 works project" does not mean a public road project.
1 28 2. QUALIFICATIONS OF BIDDERS. Prior to awarding a
1 29 contract to perform a public works project pursuant to a
1 30 competitive bidding procedure, which contract authorizes the
1 31 expenditure of more than one hundred thousand dollars in
1 32 public funds, a public owner shall tabulate all bids received
1 33 and shall determine who is the lowest responsible bidder by
1 34 considering, in addition to the amount of the bid, all of and
1 35 only the following:
2 1 a. The past experience of the bidder in the performance of
2 2 similar projects.
2 3 b. The qualifications of the bidder to perform the type of
2 4 work required by the contract.
2 5 c. The bidder's record of reliability and timely
2 6 completion of past projects.
2 7 d. Proof of the financial responsibility of the bidder.
2 8 3. PROHIBITED CRITERIA. In determining who is the lowest
2 9 responsible bidder for purposes of awarding a contract to
2 10 perform a public works project or a public road project, a
2 11 public owner shall not do any of the following:
2 12 a. Select a bidder based in whole or in part on a
2 13 consideration of whether the bidder's employees belong to or
2 14 are represented by a labor union or a labor organization.
2 15 b. Require that the bidder selected enter into an
2 16 agreement that directly or indirectly limits or requires the
2 17 bidder to recruit, train, or hire employees from a particular
2 18 source to perform work on the public works project or the
2 19 public road project.
2 20 c. Require that the bidder selected enter into an

2 21 agreement that directly or indirectly requires the bidder to
2 22 offer particular types or amounts of health insurance, life
2 23 insurance, or disability insurance coverage or retirement
2 24 benefits to employees hired by the bidder to perform work on
2 25 the public works project or the public road project.
2 26 4. BIDDING DOCUMENTS. The criteria described in this
2 27 section that are required by subsection 2 to be considered by
2 28 the public owner in determining who is the lowest responsible
2 29 bidder shall be included in any document requesting or
2 30 inviting bids on public works projects subject to this
2 31 section.

2 32 Sec. 3. Section 314.1, subsection 3, unnumbered paragraph
2 33 1, Code 2007, is amended to read as follows:

2 34 In the award of contracts for the construction,
2 35 reconstruction, improvement, or repair or maintenance of a
3 1 highway, bridge, or culvert, the agency having charge of
3 2 awarding such contracts shall give due consideration not only
3 3 to the prices bid but also to the mechanical or other
3 4 equipment and the financial responsibility and experience in
3 5 the performance of like or similar contracts. The agency
3 6 shall also comply with section 72.6, as applicable. The
3 7 agency may reject any or all bids. The agency may readvertise
3 8 and relet the project without conducting an additional public
3 9 hearing if no substantial changes are made to the project's
3 10 plans or specifications. The agency may let by private
3 11 contract or build by day labor, at a cost not in excess of the
3 12 lowest bid received.

3 13 EXPLANATION

3 14 This bill provides criteria to be used by the state and
3 15 political subdivisions of the state in awarding contracts for
3 16 public works projects which include the construction,
3 17 maintenance, or repair of a building or other construction
3 18 work paid for in whole or in part with public funds. For a
3 19 competitively bid project exceeding \$100,000, a public owner
3 20 must consider the bidder's past experience, qualifications,
3 21 and record of reliability as well as proof of financial
3 22 responsibility in determining who is the lowest responsible
3 23 bidder. The bill requires that this criteria be included in
3 24 any document requesting or inviting bids on public works
3 25 projects.

3 26 The bill also sets forth criteria that cannot be used by a
3 27 public owner in awarding either a public works project or a
3 28 public road project which is defined to include the
3 29 construction, maintenance, or repair of a road funded by
3 30 moneys from the road use tax fund. In determining the lowest
3 31 responsible bidder, the bill provides that a public owner
3 32 shall not consider criteria such as whether the bidder's
3 33 employees belong to a labor union, nor can the public owner
3 34 require that the bidder recruit employees from a particular
3 35 source or require that the bidder offer insurance or
4 1 retirement benefits.

4 2 The bill amends Code section 26.7 of the "Iowa Construction
4 3 Bidding Procedures Act" to require that bidders be given the
4 4 required notice. The bill also amends Code section 314.1 to
4 5 include a reference to new Code section 72.6 as it pertains to
4 6 the award of contracts for highway, bridge, and culvert
4 7 projects.

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